

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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AMERICAN GREENFUELS ROCKWOOD	:	
(TENNESSEE), LLC,	:	
	:	
Plaintiff,	:	21-CV-7680 (VSB)
	:	
-against-	:	<u>ORDER</u>
	:	
AIK CHUAN CONSTRUCTION PTE. LTD.,	:	
	:	
Defendant.	:	
	:	
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	:	
AIK CHUAN CONSTRUCTION PTE. LTD.,	:	
	:	
Counter Claimant,	:	
	:	
-against-	:	
	:	
KOLMAR AMERICAS, INC. and	:	
AMERICAN GREENFUELS ROCKWOOD	:	
(TENNESSEE), LLC	:	
	:	
Counterclaim Defendants.	:	
	:	
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VERNON S. BRODERICK, United States District Judge:

On April 22, 2022, Counter Claimant AIK Chuan Construction PTE. Ltd. filed their amended counterclaims pursuant to Federal Rule of Civil Procedure 15(a)(1)(B). “[W]hen a plaintiff properly amends [a] complaint after a defendant has filed a motion to dismiss that is still pending, the district court has the option of either denying the pending motion as moot or evaluating the motion in light of the facts alleged in the amended complaint.” *Pettaway v. Nat’l Recovery Sols., LLC*, 955 F.3d 299, 303–04 (2d Cir. 2020). Accordingly, it is hereby:

ORDERED that Counterclaim Defendants shall file a letter on or before May 2, 2022 to inform me whether I should deem their motion to dismiss the counterclaims as moot and allow them to refile a new motion to dismiss in accordance with Federal Rule of Civil Procedure 15(a)(3), or if I should evaluate their current motion to dismiss in light of the facts alleged by the amended counterclaims.

SO ORDERED.

Dated: April 25, 2022
New York, New York

A handwritten signature in black ink, reading "Vernon Broderick". The signature is written in a cursive, slightly stylized font. The first name "Vernon" is written in a larger, more prominent script, and "Broderick" follows in a similar but slightly smaller script. The signature is positioned above the printed name and title.

Vernon S. Broderick
United States District Judge